BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of	)	
Developing a Unified Intercarrier	)	CC Docket No. 95-116
Compensation Regime	)	

REPLY COMMENTS
OF THE MISSOURI SMALL TELEPHONE COMPANY GROUP

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I. INTRODUCTION

The Missouri Small Telephone Company Group (MoSTCG)[1], along with a number of other small rural carriers and associations that represent small rural carriers filed Initial Comments in response to the Federal Communications Commission ("Commission") *Initial Regulatory Flexibility Analysis* (*"IRFA"*).[2] The MoSTCG's Initial Comments provided cost data demonstrating the substantial implementation and ongoing costs that wireline-to-wireless ("intermodal") local number portability ("LNP") will impose on small Missouri telephone companies. The MoSTCG's Comments also provided evidence that there was a complete lack of demand for intermodal LNP in rural Missouri. Other comments filed by Alexicon, Montana Independent Telecommunications Systems, the Montana Small Rural Independents, National Telecommunications Cooperative Association (NTCA) and the Organization for the Promotion and Advancement of Small Telephone Companies (OPATSCO), the Nebraska Independent Companies, the South Dakota Telecommunications Association, and the United States Telecom Association (USTA) indicate that these high costs and low demand are faced by small carriers across the country.

The Cellular Telecommunications Industry Association (CTIA), Sprint/Nextel, and Verizon Wireless filed comments arguing that the high costs of LNP to small carriers are irrelevant or insubstantial. These Reply Comments are in response to the wireless carriers.

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[1] *See* Attachment A.

[2] *Public Notice Seeking Comment on Initial Regulatory Flexibility Analysis (IRFA) of the Intermodal Order on Wireline-to-Wireless Number Portability*, CC Docket No. 95-116, Federal Register, Vol. 70, No. 138, published July 20, 2005.

II. LNP COMPLIANCE AND IMPLEMENTATION COSTS

Sprint argues that the Commission should not consider the costs on small carriers because LNP is required by the Act, and Sprint appears to assume that rural carriers have already been porting numbers to competitors.[3] But small rural carriers such as the MoSTCG companies are not required to implement LNP unless and until they receive a bona fide request (BFR), and there has been no landline competition in the areas served by the MoSTCG companies. Therefore, unlike the regional Bell operating companies (RBOCs) and other large carriers, the MoSTCG companies had no reason to implement LNP before the FCC's November 10, 2003 *Memorandum Opinion and Order* ("the *Intermodal Order*").[4] Although some of the MoSTCG companies subsequently implemented intermodal LNP, many other MoSTCG companies sought and received temporary suspensions from the Missouri Public Service Commission ("Missouri PSC") of the Commission's wireline-to-wireless porting requirements because of the high costs to the small rural companies and their customers.[5]

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[3] Sprint Initial Comments, p. ii ("[R]ural carriers already bear the financial burden of local number portability . . ."); and p. 2 ("Rural LECs do not need to 'upgrade' any software, because the porting software is the same, regardless of the scope of intermodal porting.").

[4] *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 23697, released Nov. 10, 2003.

[5] See e.g. *In the Matter of the Petition of Farber Telephone Company for Suspension and Modification of the FCC's Requirement to Implement Number Portability*, Missouri PSC Case No. TO-2004-0437, *Order Approving Unanimous Stipulation and Agreement*, issued July 27, 2004, ("the *Farber Order*") ordered ¶2.

A. Adverse Economic Impact

Sprint claims, "The *Intermodal Order* does not impose a 'significant economic impact' on any small entity, including rural local exchange carriers ('LECs')."[6] Sprint offers no citation or support for this claim, and it is contrary to the weight of the evidence presented by small companies both in this docket and across the country before state public service commissions. For example, the Missouri PSC examined company-specific cost data and found that suspension of LNP for many of the MoSTCG companies was:

> **<u>necessary to avoid a significant adverse economic impact on users of telecommunications services generally and to avoid imposing a requirement that is unduly economically burdensome</u>**.[7]

The Missouri PSC held extensive proceedings on intermodal LNP and examined company-specific evidence for the MoSTCG companies. Accordingly, the Missouri PSC's findings and conclusions carry far more weight than Sprint's unsupported claims.

Comments filed by other small companies and small company organizations also support the fact that intermodal LNP costs will be substantial. For example, the estimated aggregate non-recurring implementation costs for the Nebraska Rural Independent Companies ("Nebraska Companies") was $2,796,556.[8] The USTA cited an example of a small company with estimated initial, non-recurring implementation costs of $327,000 and estimated annual recurring costs of

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[6] Sprint Initial Comments, pp. 1-2.

[7] See e.g. *Farber Order*, p. 9 (emphasis added).

[8] Nebraska Rural Independent Companies' Initial Comments, p. 4.

$75,000.[9] NTCA/OPASTCO cite examples of small companies that have incurred between $16,000 and over $209,000 in initial, non-recurring implementation costs, with costs per line ranging from $4.00 per line to more than $40.00 per line.[10] Clearly, these LNP compliance and implementation costs are substantial.

B. Cost Benefit Analysis

Verizon Wireless claims that the "costs and burdens associated with offering LNP to requesting customers are reasonable and are far outweighed by the benefits that flow from competition and consumer choice."[11] Sprint also makes general arguments about the benefits of competition that intermodal porting could bring to rural customers.[12] Interestingly, Sprint's position is contrary to Sprint's own May 2002 comments filed in this very docket when Sprint opposed the expansion of LNP. At that time, Sprint stated:

> <u>**The costs of such [LNP] requirements cannot be justified by any perceived benefit. Consumers, who will be required to absorb most of these [LNP] costs, should not be required to fund federal mandates that don't produce tangible benefits**</u>.[13]

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[9] USTA Initial Comments, pp. 8-9.

[10] NTCA/OPASTCO Initial Comments, p. 10.

[11] Verizon Wireless Initial Comments, p. 1.

[12] Sprint Initial Comments, pp. 4-5.

[13] Reply Comments of Sprint Corporation, CC Docket No. 95-116, filed May 20, 2002, p. 2.

Sprint's earlier position is equally applicable now, yet Sprint appears to view the situation differently when it is small rural carriers that will incur costs with little or no benefit.

In stark contrast to Sprint's comments, USTA states that the *Intermodal Order* "placed a substantial and costly new burden on a number of small businesses, in return for virtually no benefit."[14] The Nebraska Companies comment, "Little or no benefit accrues to consumers from providing intermodal LNP capability for which there is little or no consumer demand."[15] And NTCA's survey "demonstrates that the customers of rural ILECs are not demanding the ability to port their wireline number to a wireless carrier in any significant numbers."[16]

C. The LNP Cost Recovery Mechanism

Sprint argues that small rural LECs have "a means for full cost recovery that significantly mitigates any economic impact of compliance."[17] But in 2002, Sprint took a completely different position (in this docket) on LNP cost recovery mechanisms:

> **Sprint disagrees with comments suggesting that the availability of cost recovery mechanisms should allay concerns about deployment costs**. In the first instance, consumers must pay a significant amount of these costs. Secondly, just because a carrier may be able to recover all, or a portion of its costs in provisioning LNP and TBNP, that doesn't mean the expenditures are worthwhile. **Unless the benefit outweighs the costs, the expenditure should not be required**.[18]

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[14] USTA Initial Comments, p. 13.

[15] Nebraska Rural Independent Companies' Initial Comments, p. 4.

[16] *Id*. at p. 13.

[17] Sprint Initial Comments, p. 3.

[18] Reply Comments of Sprint Corporation, CC Docket No. 95-116, filed May 20, 2002, pp. 6-7.

Here again, Sprint takes a completely different stance when it is another carrier facing the costs. Sprint had it right the first time when Sprint argued that LNP expenditures should only be required if the benefits outweigh the costs. In this case, the costs clearly outweigh the benefits.

D. Transport Costs

Sprint argues that the small rural ILECs should bear the costs of transporting ported calls to a distant wireless point of interconnection (POI) far outside of the small rural company's local exchange area.[19] The MoSTCG strongly disagrees, and the MoSTCG concurs with the NTCA/OPSASTCO comments:

1. The court's stay of the *Intermodal Order* should remain in place until rating and routing issues are resolved.
2. Alternatively, until the rating and routing issues are resolved, the Commission should require wireless carriers to either: (a) establish a POI within the rural carrier's service area; or (b) pay for the transport and termination of any traffic outside of the rural carrier's service area.[20]

The Commission should also note that all of the MoSTCG companies have sought and been granted modification from the Missouri PSC so that the MoSTCG companies will not bear the

[19] Sprint Initial Comments, pp. 6-9.

[20] NTCA/OPASTCO Initial Comments, pp. 18-19.

cost for establishing any facilities or arrangements with third-party carriers to transport ported calls to any point outside of the MoSTCG companies' local service areas.[21]

III. CONCLUSION

The *Intermodal Order* places substantial costs and regulatory burdens on small businesses such as the MoSTCG member companies. These costs far outweigh any minimal benefits associated with intermodal LNP in rural areas. The Missouri PSC specifically found that intermodal LNP would impose an undue economic burden on most of the MoSTCG companies. Therefore, the Commission should exempt small rural ILECs from the intermodal porting requirement. At minimum, the Commission should rule that wireless carriers must bear the cost and responsibility for establishing any necessary facilities or arrangements with third-party carriers to transport calls to any point outside of a rural ILEC's local service areas.

Respectfully submitted,

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[21] *Farber Order*, ordered ¶3.

ATTACHMENT A

BPS Telephone Company
Citizens Telephone Company
Craw-Kan Telephone Cooperative, Inc.
Ellington Telephone Company
Farber Telephone Company
Fidelity Telephone Company
Goodman Telephone Company
Granby Telephone Company
Grand River Mutual Telephone Corp.
Green Hills Telephone Corp.
Holway Telephone Company
Iamo Telephone Company
Kingdom Telephone Company
KLM Telephone Company
Lathrop Telephone Company
Le-Ru Telephone Company
McDonald County Telephone Company
Mark Twain Rural Telephone Company
Miller Telephone Company
Oregon Farmers Mutual Telephone Company
Ozark Telephone Company
Peace Valley Telephone Co., Inc.
Rock Port Telephone Company
Seneca Telephone Company
Steelville Telephone Exchange, Inc.